the defendant appealed. *Held,* that the judgment was correct, as the payee of this promissory note was a holder in due course. *Johnston v. Knipe* (1918, Pa.) 103 Atl. 957.

That a payee might be a holder in due course at common law was undoubted. Whether he may still be such under the N. I. L. depends on whether sec. 30 (original notation) is held by its enumeration to exclude every other form of negotiation, such as, *e. g.,* that to a payee. Here, as in other connections, the saner and sounder result seems to be obtained by regarding the N. I. L. not as a codification intended to be exhaustive, but as legislation which left the common law in force in *all* points not fairly covered by the language of the statute. See Comments (1918) 27 YALE LAW JOURNAL, 686. The instant case applies this salutary principle. There is not over-much authority on the precise point. See (1915) 24 YALE LAW JOURNAL, 429, and (1918) 27 *ibid.* 558.

CONTRACTS—DEFENSES—EPIDEMIC OF INFANTILE PARALYSIS EXCUSING NON-PERFORMANCE.—The plaintiffs agreed to manage and provide prizes for a baby show at Charter Oak Park in Hartford on September 6, 1916. The defendant promised to supply a room for the show and to pay the plaintiffs $600. About the middle of August the defendant notified the plaintiffs that it wished to cancel the contract because of an epidemic of infantile paralysis which would make it dangerous to health to hold the baby show at the time proposed. To an answer setting up these facts the plaintiffs demurred. *Held,* that the defense was good, since the holding of the proposed show under the circumstances would, as matter of law, be contrary to public policy, and therefore the abandonment of it upon such contingency was an implied term of the contract. Two judges *dissenting. Hanford et al. v. Connecticut Fair Ass'n* (1918) 92 Conn. 621, 103 Atl. 838.

The dissenting judges in a very persuasive opinion combat the broad principle that whenever an otherwise lawful act becomes dangerous to public health because of an external temporary condition it automatically becomes contrary to public policy and therefore unlawful, without any statute or order from health officials declaring it to be so.

CONSTITUTIONAL LAW—INDIANA PROHIBITION LAW VALID.—The Prohibition Law of Indiana (Acts 1917, ch. 4) prohibits the manufacture, sale, gift, advertisement or transportation of intoxicating liquor except for certain specified purposes. The plaintiffs, brewers, sought an injunction to restrain the superintendent of police of an Indiana city from enforcing the law, on the ground that it violated the state constitution. *Held,* that the law was a valid exercise of the police power. Spencer, J., *dissenting. Schmitt v. F. W. Cook Brewing Co.* (1918, Ind.) 120 N. E. 19.

This case is of interest for the reason that almost alone among the authorities stands the case of *Beebe v. State* (1855) 6 Ind. 501, holding that the state legislature had no power to prohibit the manufacture and sale of intoxicating liquors. The principal case overrules that decision. Mr. Justice Spencer dissented not merely on the ground of *stare decisis* but upon what he believed to be sound constitutional principles.

COURTS—CIRCUIT COURT OF APPEALS—FOLLOWING PRECEDENTS FROM OTHER CIRCUIT COURTS.—The state of Arkansas imposed an annual tax on a railroad company for the privilege of exercising its franchise within the state, making the tax a first lien on the property of the corporation, whether in its own hands or